Lsp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 5364 OF 2007
IN
FIRST APPEAL NO. 3110 OF 2006

Shri Somnath Tulshiram Galande ...Applicant

V/s.
Standard Capacitors Pvt. Ltd. & anr. ...Respondents

Mr. S.T.Galande, Applicant present in person
Mr. P.S.Dani, Advocate for the Respondents

CORAM : B.H.MARLAPALLE,J.
DATED : 29th November, 2007

P.C.

Heard the Applicant-party in person. Leave to amend the application so as to furnish the applicant's full address.

2. Mr. Dani appears for the original defendant who has filed First Appeal No. 3110/2006. Perused the affidavit filed by the defendant opposing this application.

3. It is noted that by an order dated 13-8-2007 while directing the defendant to deposit the entire decretal amount within 8 weeks, liberty was granted to the original plaintiff-the present applicant to apply for

withdrawal. Accordingly this application has been moved by the plaintiff.

4. First Appeal No. 3110/2006 having been admitted, the defendant is presently pressing the Execution Proceedings. The amount deposited with the Execution Court is Rs.2,84,603/-, Rs.10,222/- and Rs. 500/- thus making a total of Rs.2,95,325/-. The amount of Rs. 10,222/- is by way of cost and there is no liberty granted to the applicant to withdraw this amount.

5. The impugned decree is for an amount of Rs. 2,00,100/- with 6% p.a. simple interest and if so calculated, the interest amount will come to about Rs. 84,042/- till the end of August 2007 as the Suit was filed on 28-8-2000.

6. The amount deposited by the defendant with the Execution Court is also required to be protected, as First Appeal No. 3110/2006 is already pending and the applicant is ready and willing to protect the same by furnishing an appropriate security.

7. Hence, the application is allowed and Execution Court is directed to allow the withdrawal of Rs. 2,84,603/- as deposited by the defendant to the plaintiff subject to his furnishing security to the

satisfaction of the said Court.

[B.H.MARLAPALLE,J.]